

Administrative Review
Petition for Review of a Decision
Institute of personal privacy

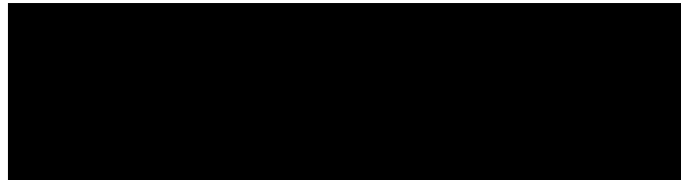
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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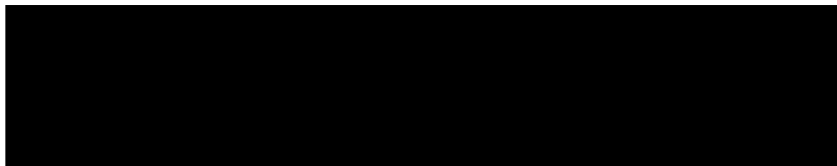


FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **MAR 15 2010**
LIN 07 145 53279

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding
an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section
203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2) as a member of the professions holding an advanced degree.¹ The director determined that the petitioner failed to demonstrate a continuing ability to pay the difference between the beneficiary's actual wages and the proffered wage as of the 2003 priority date, and, noting that the petitioner had filed other employment-based petitions, questioned whether the petitioner could pay either the proffered wages or differences between actual wages and proffered wage for the remaining beneficiaries with pending petitions.. The director also determined that the proffered position did not require a professional, as the ETA Form 750 required a Master's degree in any field, as opposed to a specific field of study.

On appeal, counsel states the petitioner was in the process of obtaining requisite financial statements to establish that the petitioner had the ability to pay the beneficiaries.

Counsel dated the appeal October 31, 2007. As of this date, more than twenty-eight months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. He has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.

¹ The AAO notes that the petitioner substituted the beneficiary on the instant petition for the original beneficiary, [REDACTED]. The instant petition was filed on April 23, 2007 accompanied by ETA Form 750 with a priority date of May 21, 2003. The petitioner had filed a prior I-140 petition for the beneficiary accompanied by an ETA Form 9089 with a priority date of May 15, 2006. The record of proceedings contains the beneficiary's W-2 Form for tax year 2006 that indicates he earned a salary higher than the proffered wage in 2006. This petition was approved on March 26, 2007. The record of proceedings contains the beneficiary's pending I-485 application for adjustment of status based on the earlier I-140 petition approval.